

RER  
01/11/07  
Item #14

AN ORDINANCE 2007-01-11-0063

**AN ORDINANCE AMENDING PROVISIONS OF ARTICLE VII OF CHAPTER 16 OF THE CITY CODE OF SAN ANTONIO, TEXAS TO INCLUDE COPPER IN THE LIST OF REGULATED METAL PROPERTIES; AMENDING OTHER PROVISIONS OF ARTICLE VII; ESTABLISHING CRIMINAL PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF ARTICLE VII; AND PROVIDING FOR PUBLICATION.**

\*\*\*\*\*

**WHEREAS**, an increase in the wholesale value of copper and metals containing copper has led to an increase in the theft of such items and in related vandalism; and

**WHEREAS**, state law requires that a record be kept; and by resellers only, of purchases of more than 50 pounds of copper; and

**WHEREAS**, City Council had determined that requiring a record to be kept of all copper purchases by resellers will help reduce the incidence of copper theft in San Antonio; and

**WHEREAS**, a revision of the City Code provisions which set out the City's authority to respond to copper theft is needed; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** Chapter 16, Article VII, Divisions 1 and 2 of the City Code of San Antonio, Texas are deleted in their entirety and are replaced with the following:

**DIVISION 1. GENERALLY**

**Sec. 16-186. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Best management practices* means a technique or series of structural and non-structural techniques which, when used in a storm water pollution prevention plan, as required by federal law, is proven to be effective in controlling industrial related runoff.

*Dealer* means a person, firm, or corporation who buys salvage for resale or owns or operates a salvage yard, as defined herein.

*Director* means the director of the housing and neighborhood services department.

*Salvage* means and refers to any secondhand worn out, cast off, or discarded article or material (including but not limited to bodies, parts, and sections of junked, wrecked, or inoperable vehicles, airplanes, and boats) ready for destruction, or collected or stored for dismantling, conversion, or removal of parts; and shall include any article kept for more than sixty (60) days for the purpose of its repair.

*Salvage Yard* means any facility or premises used for the storage or collection of salvage as defined above.

**Sec. 16-187. License required.**

No dealer may operate a salvage yard, within the city without a valid license. A dealer may transfer a license only with written approval of the director and in compliance with all applicable city code requirements.

**Sec. 16-188. Application for license.**

- (a) All applications for licenses to operate salvage yards must be made in writing to the director on a form prescribed by the director and shall, among other things contain:
  - (1) The name, residence, and business address of the applicant (this information shall be listed for each member of the partnership and for each officer of a corporation);
  - (2) The name and nature of the proposed operation; and
  - (3) The present zoning, address, and legal description of the premises for which application is being applied.
- (b) All applications must contain the following statement:

"The license applied for shall be subject to all provisions of the codes and ordinances of the city relating to salvage yards and auto dismantlers as well as all state and federal regulations relating to such operations."
- (c) All applications must be signed and sworn to by the party applying for the license (by a general partner of a partnership and by an officer of a corporation) before a notary public or other official authorized to administer oaths.
- (d) The application for operations engaged in the dismantling or conversion of junked, wrecked, or inoperable vehicles whether for scrap or parts must include:
  - (1) A copy of the National Pollutant Discharge Elimination System discharge permit or notice of coverage for that location;
  - (2) A copy of the storm water pollution prevention plan for that location which must include:
    - a. A list of people on the operation's pollution prevention team, with an outline of their respective responsibilities;
    - b. A statement of waste minimization or waste reduction efforts in place for that location;
    - c. A copy of the spill response plan in place for that location;

- d. A list of the spill response equipment available at that location;
  - e. A list of authorized personnel on that location to respond to a spill at that location;
  - f. A list of significant spills or leaks occurring for the last three (3) years at that location;
  - g. Records of scheduled inspections of storm water management devices at that location;
  - h. A site map detailing the outfalls, drainage areas, drainage patterns, and surface waters for that location;
  - i. A list of non-storm water discharges and their areas (such as springs, air conditioner condensation, etc.) for that location;
  - j. Records of non-storm water discharge testing for that location;
  - k. A list of floor drains at that location that discharge to the storm sewer;
  - l. An inventory of significant materials and/or inventory of potential pollutant sources at that location exposed to rainfall; and
  - m. A summary of any sampling data for storm events for that location;
- (3) Identification of the best management practices, measures and controls for that location which should include but not be limited to:
- a. Draining fluid and removing batteries from incoming vehicles as soon as feasible;
  - b. Labeling and separating fluid storage containers such as oil, antifreeze, fuel, etc.;
  - c. Recycling or reusing vehicle fluids where practical;
  - d. Cleaning parts indoors or under a covered area using minimal amounts of biodegradable detergents;
  - e. Development of a preventive maintenance schedule to include inspections, maintenance, and cleaning of the yard/facility's equipment and vehicles;
  - f. Scheduling of periodic inspections of equipment for leaks, spills, and malfunctioning or worn parts;
  - g. Maintaining an adequate supply of dry absorbent material on-site;
  - h. Proper disposal of used absorbent materials;
  - i. Placement of drip pans or plastic sheets under vehicles, parts, and equipment during maintenance and dismantling;
  - j. No use of vehicle fluids, oils, or fuel for weed control;
- (4) A copy of the multi-sector permit for that location and:
- a. Copies and dates of all sampling pursuant to federal regulations taken during the past year; or
  - b. Copies of any waivers or alternative certification to the required sampling; or
  - c. A statement that the location is not required to conduct testing for that period due to compliance with federal regulations for concentrations of pollutants, and copies of all supporting documentation and test data;
- (5) Copies of all other records and permits required by the Texas Commission on Environmental Quality and the Environmental Protection Agency for that location including:
- a. TCEQ waste registration;

- b. EPA identification number;
  - c. Manifests for offsite hazardous waste shipments for the last three (3) years;
  - d. Annual waste summaries for the last three (3) years;
  - e. Annual waste generation fee receipt;
  - f. Contingency plan and emergency procedures;
  - g. TCEQ pollution prevention plan;
  - h. TCEQ annual pollution prevention progress report.
- (e) Production of any of the records or permits listed in subsection (d), above, shall not be required upon presentation of certification from the appropriate agencies or entities that such records or permits are not required for that location.
- (f) The director may require code enforcement officers to physically ascertain that documents required by subsection (d), above, are kept on file at the salvage yard as an alternative to the inclusion of such documents with an application. In such cases, the application must not be approved until the officers have ascertained the documents' existence. Enforcement of federal or state requirements shall remain the responsibility of the appropriate agencies.

**Sec. 16-189. License fees.**

The annual fee for each establishment or location licensed by this article shall be five hundred dollars (\$500.00) paid to the City of San Antonio with the application for the license. The fee will be refunded in the event the license is refused. The license shall cover the period from the first day of January through the last day of December of each year. Only the first year's license may be prorated for each month or fraction thereof. The fee for issuing a duplicate license for one which is lost, destroyed or mutilated shall be ten dollars (\$10.00).

**Sec. 16-190. Issuance or denial of licenses.**

Annual licenses shall be issued by the director upon receipt of the prescribed fee and the completed application, provided that:

- (1) The applicant, including partners or officers in the case of a partnership or a corporation, has not been convicted within the previous five (5) years of two (2) or more violations of this article; and
- (2) After inspection, the premises are in compliance with this article and other applicable city ordinances and codes. In the event a license is denied, the applicant may appeal this decision to the city council.

**Sec. 16-191. City council approval; appeal to city council.**

- (a) It shall be unlawful for any person to establish or expand any salvage yard within the city without obtaining prior approval of the city council. In granting such approval, the city council may impose conditions which the applicant must comply with before certificates of occupancy may be issued by the director of building inspections for the use of land or buildings on the property pursuant to the approval. The conditions shall not be construed as conditions precedent to the granting of approval, but shall be construed as conditions precedent to the granting of the certificates of occupancy.
- (b) The decision of the city council whether to approve the expansion or establishment of a salvage yard, as defined by this article, shall be made only after a public hearing before

the council on the question at which interested parties shall have the opportunity to be heard. The housing and neighborhood services department shall mail notices to the owners of all property located within two hundred (200) feet of the area to be occupied by the new salvage yard or expansion. The notice shall state:

- (1) The nature of the approval sought;
- (2) The location of the requested expansion or new yard;
- (3) The date, time, and location of the hearing; and
- (4) That the addressee will have the opportunity to be heard regarding the requested expansion or establishment of the new salvage yard.

The rules, methods and procedures for the timing and delivery of notices and all other related notice matters shall be the same as those used whenever an application for a change in zoning is to be heard before the zoning commission.

- (c) At any time a salvage yard, as defined by this article, ceases operations and the property is not used for a salvage yard for a period of one (1) year or more, reestablishment of the use will require approval of the city council in the same manner as an expansion or establishment of a new salvage yard.
- (d) The city council will not approve the establishment of a new salvage yard, as defined by this article, nor an expansion of an existing salvage yard, if the location of the new salvage yard or the expansion area is within five hundred (500) feet of a church or school building or within three hundred (300) feet of a residence (single-family home, duplex, apartment, townhouse, or mobile home) if such church, school or residence is located within an A, B, C, D, E, F, G, H, R-1, R-2, R-3, R-4, R-5, R-6, O-1, B-1, B-2, or B-3 zone.
- (e) Any appeal of the decision or action by the director shall be filed in writing with the city clerk within twenty (20) days of receipt of the decision or action specifying the exact grounds and reasons for the appeal. The appeal shall be heard by the city council during its next available, regularly scheduled meeting. The city council may uphold, reverse, or modify the director's decision or action. Failure to appeal to the city council within the prescribed period shall render the director's decision or action final, and in cases of license revocation, the effect shall be a forfeiture of the license, which forfeiture shall be final.

#### **Sec. 16-192. Variances.**

The board of adjustment is authorized to grant, pursuant to the procedures set forth in this Code, a variance from the provisions of sections 16-193 and 16-194, but only due to unique circumstances on the premises or adjacent thereto (such as topography), not created by the dealer and not merely financial, and which are not a part of general conditions in the area, provided and except, however, that existing industries within the purview of this article may expand to adjoining property without the necessity of an additional license so long as all other requirements for such expansion are met by the dealer. The board of adjustment, however, may not in any manner grant variances to subsection 16-194(g) nor to requirements set by state or federal regulations which may be listed in this article.

#### **Sec. 16-193. Fencing.**

- (a) All salvage yards shall be enclosed on all sides (including front and rear) with a substantial and anchored wall or screen fence constructed as an adequate barrier to inhibit

the migration of rodents and other vectors from the salvage yard to an adjacent property. The wall or screen fence shall be constructed with appropriate screen drains so as not to inhibit necessary water drainage.

- (b) The wall or screen fence shall be constructed such that the interior of the salvage yard is not visible from the exterior. The wall or screen fence for salvage yards located within one hundred (100) feet of a property with a residence thereon shall be constructed or modified so that it is eight (8) feet in height. The wall or screen fence for all other salvage yards shall be at least six (6) feet in height.
- (c) Those sections of a salvage yard which are contiguous with another salvage yard shall be exempt from subsection (b), above, if those sections otherwise have an adequate barrier as required by subsection (a), above, to inhibit the migration of rodents and other vectors between the salvage yards.
- (d) Any section of wall or screen fence located within one hundred (100) feet of a property with a residence thereon shall be constructed or modified so that it extends at least (3) inches into the ground. Building up the surrounding ground to cover at least the lower (3) three inches of the section of wall or screen fence shall be considered compliance with this requirement. Should water drainage be substantially affected, the procedure in section 16-192 shall be followed.
- (e) All walls or screen fences shall be maintained in a neat, solid, substantial, and safe condition. No wall or screen fence shall be kept in a listing, damaged, or decaying condition.
- (f) Gates for access to the salvage yard's premises at each street or alley line shall not have combined openings exceeding thirty (30) percent of the alley or street frontage. All gates for access shall swing inward and shall be kept closed when the salvage yard is not open for business.
- (g) The fencing requirements in the subsection shall not apply to salvage yards conducted solely within a completely enclosed structure or structures.
- (h) Dealers affected by this section shall have two (2) years from the date this section becomes effective to comply.

**Sec. 16-194. Manner of salvage article storage; waste containment; weed and brush maintenance; fire lane.**

- (a) Salvage articles on the premises of a salvage yard shall be arranged so that a reasonable inspection of, or access to, all parts of the premises can be had at any time by the proper fire, health, police, code enforcement, and building authorities which inspections dealers shall permit at any reasonable time. All junked, wrecked or inoperable vehicle bodies located outside of a building, if stacked, shall be so stacked only with the use of metal racks or other safe, metal supports so that all bodies are at least six (6) inches above the ground and are arranged to provide ease of inspection, control of insects and rodents, and to facilitate water drainage, containment, and waste control. Neither the vehicle bodies, vehicle parts, nor other salvage articles shall be stored or stacked higher than the height of the salvage yard's wall or screen fence.
- (b) No salvage articles shall be placed in any manner outside of the salvage yard's surrounding screen fence or wall.

- (c) Premises shall be kept clean of any weeds and/or brush over twelve (12) inches tall where salvage articles are kept and/or within one hundred fifty (150) feet from the curb line of adjacent streets or the edge of the streets or road surface where no curb exists.
- (d) Upon the salvage dealer's possession of all salvage articles, contaminated liquid wastes along with other contaminated materials, hazardous waste, and special waste--including freon--shall be removed from the salvage articles and contained, stored, and disposed in compliance with all applicable state and federal regulations. Disposal of accumulated contaminated liquids and materials shall be accomplished by a duly licensed contractor. The salvage dealer shall maintain on premises all completed manifests evidencing legal disposal for a period of no less than five (5) years from the date of disposal.
- (e) All storage of liquid waste shall be subject to applicable state and federal regulations. In no event shall any salvage dealer maintain a volume and weight of stored liquid waste inventory in excess of the lesser of the maximum exempt amounts allowed by the fire code as adopted within this Code or state and federal regulations for a small quantity generator. All liquid waste shall be stored only in above ground containers approved by and in accordance with the state department of transportation, the Texas Administrative Code, and the fire code sufficient for the delivery to a transporter for disposal. It shall be unlawful for any waste to be held in a container which leaks, is in any other manner not in compliance with state and federal regulations, or in any manner fails to completely contain the material in question.
- (f) All solid waste, regardless of character or category, shall be so contained as to cause or allow no release or spill of the material in question.
- (g) All salvage yards, as defined by this article, shall have a fire lane. No salvage articles shall be placed within ten (10) feet of the surrounding wall or screen fence. The fire chief shall oversee fire lane specifications and compliance for each salvage yard, and may alter the required number of feet in accordance with the location, use, size, and other characteristics of an individual salvage yard. A salvage yard shall be brought into compliance within one (1) year. All penalties and appellate procedures of chapter 11 of this Code shall apply to this subsection.

**Sec. 16-195. Emergency contact numbers.**

All salvage dealers shall place and maintain a sign on the premises that may be read from the street right-of-way listing the names and telephone numbers of at least one person in the county who may be called to give admittance to the premises in case of emergency.

**Sec. 16-196. Rodent and vector control.**

- (a) All salvage yards shall have a rodent and vector extermination treatment covering the entire premises conducted a minimum of once every six (6) months, conducted in such a manner and utilizing such chemicals as are acceptable to the director.
- (b) A rodent and vector control program is the responsibility of the dealer and shall be on-going for the duration of the salvage yard's operation.
- (c) A code compliance officer shall inspect all salvage yards, as defined by this article, within the city a minimum of once every six (6) months. At the time of the inspection, the inspector shall be provided with evidence to prove that such extermination procedure has occurred within the preceding six-month period and that the dealer has an on-going program for observation, determination, and control of rodents and vectors. The dealer's

presentation of evidence of a service contract with a recognized and licensed pest control contractor may satisfy this requirement.

- (d) If a professional exterminator has been employed, a receipt for payment for services rendered shall be provided. If the dealer conducts the extermination without using a professional exterminator, the dealer shall request health department certification at the time the extermination occurs and furnish the code compliance officer with such evidence sufficient to show that the control has been accomplished in an efficient manner.
- (e) It shall be unlawful for any dealer to fail to have the necessary rodent and vector extermination conducted in accordance herewith, and it shall also be unlawful to fail to present to the code compliance officer upon request the necessary verification of such effective extermination.

**Sec. 16-197. Monthly inspections; nuisance declared.**

- (a) Monthly inspections shall be made of all salvage yards by the housing and neighborhood services department for the purpose of assuring compliance with the terms of this article. A form shall be devised by said department to be completed at the time of such inspection indicating the date the inspection occurred. This form indicating the date of the last inspection must be posted by the dealer in a conspicuous place on the premises at all times.
- (b) Conditions maintained in violation of this article which impact public health, safety, or welfare, or which deprive neighbors of their safe or peaceful use of nearby properties shall be unlawful and shall be deemed a public nuisance.
- (c) Multiple allegations of violations of the provisions of this article shall be grounds for the director to consider revocation of the dealer's license. Revocation by the director, if such should occur, may take place only after opportunity is afforded to the dealer to confer with the director concerning the alleged violations. Revocation may be appealed to the city council.

**Sec. 16-198. Time limit for compliance by newly annexed yards.**

- (a) Dealers of salvage yards which are annexed into the city shall have a period of one (1) year from the effective date of the annexation to install fencing as required by this article. Dealers whose salvage yards are annexed shall also demonstrate compliance with existing federal, state, and county laws and regulations applicable to fencing requirements for such yards at the date of annexation.
- (b) Subsequent to annexation, the director shall promptly notify affected dealers in newly annexed areas of the obligations under this article.

**DIVISION 2. RECEIPT OF REGULATED METAL PROPERTY**

**Sec. 16-199. Definitions.**

For the purpose of this article, the following terms shall have the meanings indicated:

- (1) *City* means the City of San Antonio, Bexar County, Texas.
- (2) *Secondary metals recycler* means any person who, directly or through an agent, manager, or employee, purchases or receives scrap metal which is thereafter subjected to two or more of the following: (a) sorting or classifying, (b) cleaning, (c) bailing or wrapping, (d)

- cutting, shredding, or shearing, or (e) changing the physical form or chemical content thereof as needed for the manufacturing of new metal items.
- (3) *Salvage dealer* means a person other than a secondary metals recycler, who personally or through managers, agents, and/or employees, purchases or receives scrap or other metal items that are offered for sale.
  - (4) *Person* means an individual, joint venture, partnership, corporation, trust, or association.
  - (5) *Dealers* means both secondary metals recyclers and junk and salvage dealers collectively.
  - (6) *Regulated metal property* means the following:
    - a. Street signs,
    - b. Traffic directional and traffic control signs,
    - c. Traffic light signals,
    - d. Manhole covers,
    - e. Road and bridge guard rails,
    - f. Street light poles and fixtures,
    - g. Any metal item that is conspicuously marked with any form of the name or initials of the city, city water board, city public service board (initials CPS or CPSB), or any telephone company, or
    - h. Copper or metal items made in part of copper.

**Sec. 16-200. Purchase of regulated metal property prohibited; exceptions.**

No dealer, individually or through any manager, agent or employee, shall receive regulated metal property, unless the regulated metal property is received from:

- (1) Any governmental entity or agency;
- (2) A trustee in bankruptcy, executor, administrator, or receiver who presents proof of authority to sell generally described regulated metal from an estate;
- (3) Any public official acting under the order of a court;
- (4) A manufacturer or other commercial vendor that produces, transports, or sells regulated metals property in the ordinary course of business.
- (5) Any vendor who submits a certificate of approval from the director of the housing and neighborhood services department or the utility company identified on the regulated metal item, evidencing that such vendor is authorized to sell the subject described regulated metals property; or
- (6) Any vendor other than those set forth in paragraphs (1) through (5) above if the dealer first obtains all of the following information and documents;
  - a. The vendor's name, business address, or home address if there is no business address;
  - b. The distinctive number from the driver's license, military identification card, or passport, or personal identification certificate issued by Texas or another state, or a work authorization issued by the United States Immigration and Naturalization Service, of the person delivering the regulated metal property;
  - c. The date and time of the transaction;
  - d. The weight or volume, and a physical description of the type of regulated metal property received;
  - e. The amount of consideration given for the regulated metal property;

- f. A signed statement from the person delivering the regulated metals property stating that he or she is the rightful owner of, or is entitled to sell, the regulated metal property being delivered; and
- g. The legible printed name or initials of the dealer or agent of the dealer who enters the foregoing information on the records of the dealer.

**Sec. 16-201. Individuals to be prosecuted; fine upon conviction.**

It is a class "C" misdemeanor for any individual dealer, manager, agent, or employee of a dealer to recklessly receive or negligently allow another to receive regulated metal property without first recording all data and obtaining documents required by section 16-200(6) of this article and upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.00).

**Sec. 16-202. Revocation of license of salvage dealers with repeat violations; hearing.**

The housing and neighborhood services department director shall investigate suspended violators of this article. An administrative license revocation hearing shall be conducted by the city manager or a duly appointed hearing officer in accordance with the requirements of section 16-203. The hearing officer shall consider documentary evidence and testimony from any interested parties who desire to offer relevant testimony. Upon a determination that the licensee is unable or unwilling to enforce the business practices necessary to comply with this article, the city manager shall revoke the dealer's license.

**Sec. 16-203. License revocation hearing.**

- (a) *Request by housing and neighborhood services director to city manager for hearing.* The director shall notify the city manager of the need for a salvage dealer's license revocation administrative hearing and the city manager or a duly authorized representative shall set a hearing date. The director shall notify the affected salvage dealer of such hearing, the reason for such hearing, and of the dealer's right to present evidence and to question all witnesses at such hearing. The notice shall be mailed by certified mail, return receipt requested, or hand delivered to an individual salvage dealer or to any partner of a partnership dealer, or to any officer of a corporate dealer. The notice shall be so delivered not less than fifteen (15) days before such hearing.
- (b) *Prerequisite for hearing.* Such hearing shall be had if (a) the salvage dealer or any employee, manager, or agent of the dealer cumulatively have accrued two (2) convictions for violating this ordinance within a twelve (12) month period, or three (3) convictions within an eighteen (18) month period, or (b) the housing and neighborhood services department documents three (3) violations of this division by a dealer and any employee, manager, or agent of the same dealer within a thirty (30) day period.
- (c) *Notice to dealer of license revocation.* If the hearing officer determines that the dealer's salvage dealer's license shall be revoked, the city manager shall issue a written thirty days notice of a salvage dealer's license revocation to the dealer by certified mail, return receipt requested. The revocation notice shall inform the salvage dealer of the right of appeal and of the time limit for the written notice of appeal. The revocation shall become final on the thirty-first day after the salvage dealer's receipt of said notice unless an appeal is properly filed.

- (d) *Appeal to city council; request in writing.* The dealer licensee shall have the right of an administrative appeal to the city council if demanded in writing and delivered to the city manager within ten (10) days after the salvage dealer's receipt of the city manager's written thirty days notice salvage dealer's license revocation. Any continuation of business as a salvage dealer after such revocation takes effect shall be in violation of the license requirements of this article unless enjoined by a court of competent jurisdiction. Said revocation notice shall inform the salvage dealer of the right of appeal and of the time limit for the required written notice of appeal to be submitted to the city manager.

**Sec. 16-204. Records retention and inspection; fifteen-day hold notice.**

- (a) *Records.* Dealers shall maintain all records required by this article for one year from the date of the purchase reflected in the record.
- (b) *Inspection of records; refusal declared an offense.* During the dealer's customary business hours, any city code compliance investigator or city police officer shall be provided access by any owner, manager, employee, or agent of the dealer to all records required by this article. Failure to provide such access shall constitute a class "C" misdemeanor offense, punishable by a fine of not more than five hundred dollars (\$500.00).
- (c) *Hold notice; refusal to hold declared an offense.* Whenever a city code compliance investigator has reasonable cause to believe that a certain item of regulated metal property in the possession of a dealer has been obtained in violation of this article, or is stolen property, the city code compliance investigator may issue a "Hold Notice" to the dealer, requiring that such item be set aside and retained. Such hold notice shall be in writing, shall be delivered personally or by certified mail, return receipt requested, to the dealer, shall specifically identify those items of regulated metal property that are believed to have been obtained in violation of this article. Upon receiving the notice, the dealer may not process or remove the items of regulated metal property identified in the notice, or any portion thereof, from the place of business of the dealer for fifteen (15) calendar days from receipt of the notice by the dealer, unless released by a city code compliance investigator.

At the expiration of the hold period, the dealer may dispose of the regulated metal property unless other disposition has been ordered by a court of competent jurisdiction.

Failure to separate the specified items from other metals inventory and protect the items as required by the hold notice shall constitute a class "C" misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).

Secs. 16-205--16-210. Reserved.

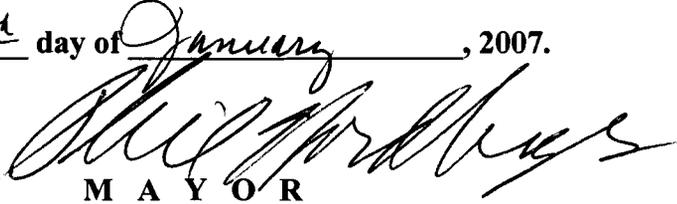
**SECTION 2.** The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing code.

**SECTION 3.** The city clerk is directed to publish notice of these amendments to Chapter 16, Salvage Yards and Auto Dismantlers of the City Code of the City of San Antonio, Texas.

Publication shall be made one time in a newspaper published in the City, in accordance with Section 17 of the City Charter.

**SECTION 4.** This ordinance is effective immediately upon the receipt of eight (8) affirmative votes, or in the event eight (8) affirmative votes are not received, ten (10) days after passage.

**PASSED AND APPROVED** on this the 11<sup>th</sup> day of January, 2007.

  
M A Y O R

**PHIL HARDBERGER**

**ATTEST:**   
City Clerk

**APPROVED AS TO FORM:**   
City Attorney

**AN ORDINANCE AMENDING PROVISIONS OF ARTICLE VII OF CHAPTER 16 OF THE CITY CODE OF SAN ANTONIO, TEXAS TO INCLUDE COPPER IN THE LIST OF REGULATED METAL PROPERTIES; AMENDING OTHER PROVISIONS OF ARTICLE VII; ESTABLISHING CRIMINAL PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF ARTICLE VII; AND PROVIDING FOR PUBLICATION.**

**PASSED AND APPROVED**  
this 11th day of January, 2007.  
**/s/ PHIL HARDBERGER**  
Mayor

**ATTEST:**  
**/s/ LETICIA M. VACEK**  
City Clerk  
1724

**Affidavit of Publisher**

STATE OF TEXAS  
COUNTY OF BEXAR  
S.A. - CITY CLERK

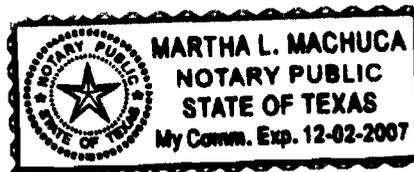
Before me, the undersigned authority, on this day personally appeared Helen I. L... by me duly sworn, says on oath that she is Publisher of the Commercial Recorder, a general circulation in the City of San Antonio, in the State and County aforesaid, and Ordinance 2007-01-11-0063 here to attached has been published in every issue newspaper on the following days, to wit:

01/24/2007.

*Helen I. Lutz*

Sworn to and subscribed before me this 24th day of of January, 2007.

*Martha L. Machuca*



## **DIVISION 1. GENERALLY**

### **Sec. 16-186. Definitions.**

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*Best management practices* means a technique or series of structural and non-structural techniques which, when used in a storm water pollution prevention plan, as required by federal law, is proven to be effective in controlling industrial related runoff.

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*Salvage Yard* means any facility or premises used for the storage or collection of salvage as defined above.

(Code 1959, § 20-1; Ord. No. 39908, § 1, 9-9-71; Ord. No. 87958, § 2, 6-11-98)

### **Sec. 16-187. License required.**

No dealer may operate a salvage yard, within the city without a valid license. A dealer may transfer a license only with written approval of the director and in compliance with all applicable city code requirements.

(Code 1959, § 20-2; Ord. No. 39908, § 1, 9-9-71; Ord. No. 41231, § 1, 9-28-72; Ord. No. 87958, § 3, 6-11-98)

### **Sec. 16-188. Application for license.**

(a) All applications for licenses to operate salvage yards must be made in writing to the director on a form prescribed by the director and shall, among other things contain:

- (1) The name, residence, and business address of the applicant (this information shall be listed for each member of the partnership and for each officer of a corporation);
- (2) The name and nature of the proposed operation; and
- (3) The present zoning, address, and legal description of the premises for which application is being applied.

(b) All applications must contain the following statement:

"The license applied for shall be subject to all provisions of the codes and ordinances of the city relating to salvage yards and auto dismantlers as well as all state and federal regulations relating to such operations."

(c) All applications must be signed and sworn to by the party applying for the license (by a general partner of a partnership and by an officer of a corporation) before a notary public or other official authorized to administer oaths.

(d) The application for operations engaged in the dismantling or conversion of junked, wrecked, or inoperable vehicles whether for scrap or parts must include:

(1) A copy of the National Pollutant Discharge Elimination System discharge permit or notice of coverage for that location;

(2) A copy of the storm water pollution prevention plan for that location which must include:

a. A list of people on the operation's pollution prevention team, with an outline of their respective responsibilities;

b. A statement of waste minimization or waste reduction efforts in place for that location;

c. A copy of the spill response plan in place for that location;

d. A list of the spill response equipment available at that location;

e. A list of authorized personnel on that location to respond to a spill at that location;

f. A list of significant spills or leaks occurring for the last three (3) years at that location;

g. Records of scheduled inspections of storm water management devices at that location;

h. A site map detailing the outfalls, drainage areas, drainage patterns, and surface waters for that location;

i. A list of non-storm water discharges and their areas (such as springs, air conditioner condensation, etc.) for that location;

j. Records of non-storm water discharge testing for that location;

k. A list of floor drains at that location that discharge to the storm sewer;

l. An inventory of significant materials and/or inventory of potential pollutant sources at that location exposed to rainfall; and

m. A summary of any sampling data for storm events for that location;

(3) Identification of the best management practices, measures and controls for that location which should include but not be limited to:

a. Draining fluid and removing batteries from incoming vehicles as soon as feasible;

b. Labeling and separating fluid storage containers such as oil, antifreeze, fuel, etc.;

c. Recycling or reusing vehicle fluids where practical;

d. Cleaning parts indoors or under a covered area using minimal amounts of biodegradable detergents;

e. Development of a preventive maintenance schedule to include inspections, maintenance, and cleaning of the yard/facility's equipment and vehicles;

f. Scheduling of periodic inspections of equipment for leaks, spills, and malfunctioning or worn parts;

g. Maintaining an adequate supply of dry absorbent material on-site;

h. Proper disposal of used absorbent materials;

i. Placement of drip pans or plastic sheets under vehicles, parts, and equipment during maintenance and dismantling;

j. No use of vehicle fluids, oils, or fuel for weed control;

(4) A copy of the multi-sector permit for that location and:

a. Copies and dates of all sampling pursuant to federal regulations taken during the past year; or

b. Copies of any waivers or alternative certification to the required sampling; or

c. A statement that the location is not required to conduct testing for that period due to compliance with federal regulations for concentrations of pollutants, and copies of all supporting documentation and test data;

(5) Copies of all other records and permits required by the Texas Commission On Environmental Quality and the Environmental Protection Agency for that location including:

a. TCEQ waste registration;

b. EPA identification number;

c. Manifests for offsite hazardous waste shipments for the last three (3) years;

d. Annual waste summaries for the last three (3) years;

e. Annual waste generation fee receipt;

f. Contingency plan and emergency procedures;

g. TCEQ pollution prevention plan;

h. TCEQ annual pollution prevention progress report.

(e) Production of any of the records or permits listed in subsection (d), above, shall not be required upon presentation of certification from the appropriate agencies or entities that such records or permits are not required for that location.

(f) The director may require code enforcement officers to physically ascertain that documents required by subsection (d), above, are kept on file at the salvage yard as an alternative to the inclusion of such documents with an application. In such cases, the application must not be approved until the officers have ascertained the documents' existence. Enforcement of federal or state requirements shall remain the responsibility of the appropriate agencies.

(Code 1959, § 20-3; Ord. No. 39908, § 1, 9-9-71; Ord. No. 87958, § 3, 6-11-98)

#### **Sec. 16-189. License fees.**

The annual fee for each establishment or location licensed by this article shall be five hundred dollars (\$500.00) paid to the City of San Antonio with the application for the license. The fee will be refunded in the event the license is refused. The license shall cover the period from the first day of January through the last day of December of each year. Only the first year's license may be prorated for each month or fraction thereof. The fee for issuing a duplicate license for one which is lost, destroyed or mutilated shall be ten dollars (\$10.00).

(Code 1959, § 20-8; Ord. No. 39908, § 1, 9-9-71; Ord. No. 41231, § 1, 9-28-72; Ord. No. 42011, § 1, 3-29-73; Ord. No. 45535, § 10, 7-24-75; Ord. No. 49627, § 21, 7-27-78; Ord. No. 52523, § 22, 7-24-80; Ord. No. 55811, § 18, 9-16-82; Ord. No. 59311, § 7, 9-4-84; Ord. No. 61329, 8-29-85; Ord. No. 87958, § 3, 6-11-98; Ord. No. 99730, § 1, 9-16-04)

**Sec. 16-190. Issuance or denial of licenses.**

Annual licenses shall be issued by the director upon receipt of the prescribed fee and the completed application, provided that:

- (1) The applicant, including partners or officers in the case of a partnership or a corporation, has not been convicted within the previous five (5) years of two (2) or more violations of this article; and
- (2) After inspection, the premises are in compliance with this article and other applicable city ordinances and codes. In the event a license is denied, the applicant may appeal this decision to the city council.

(Code 1959, § 20-7; Ord. No. 39908, § 1, 9-9-71; Ord. No. 41231, § 1, 9-28-72; Ord. No. 46844, § 2, 7-1-76; Ord. No. 87958, § 3, 6-11-98)

**Sec. 16-191. City council approval; appeal to city council.**

(a) It shall be unlawful for any person to establish or expand any salvage yard within the city without obtaining prior approval of the city council. In granting such approval, the city council may impose conditions which the applicant must comply with before certificates of occupancy may be issued by the director of building inspections for the use of land or buildings on the property pursuant to the approval. The conditions shall not be construed as conditions precedent to the granting of approval, but shall be construed as conditions precedent to the granting of the certificates of occupancy.

(b) The decision of the city council whether to approve the expansion or establishment of a salvage yard, as defined by this article, shall be made only after a public hearing before the council on the question at which interested parties shall have the opportunity to be heard. The housing and neighborhood services department shall mail notices to the owners of all property located within two hundred (200) feet of the area to be occupied by the new salvage yard or expansion. The notice shall state:

- (1) The nature of the approval sought;
- (2) The location of the requested expansion or new yard;
- (3) The date, time, and location of the hearing; and
- (4) That the addressee will have the opportunity to be heard regarding the requested expansion or establishment of the new salvage yard.

The rules, methods and procedures for the timing and delivery of notices and all other related notice matters shall be the same as those used whenever an application for a change in zoning is to be heard before the zoning commission.

(c) At any time a salvage yard, as defined by this article, ceases operations and the property is not used for a salvage yard for a period of one (1) year or more, reestablishment of the use will require approval of the city council in the same manner as an expansion or establishment of a new salvage yard.

(d) The city council will not approve the establishment of a new salvage yard, as defined by this article, nor an expansion of an existing salvage yard, if the location of the new salvage yard or the expansion area is within five hundred (500) feet of a church or school building or within three hundred (300) feet of a residence (single-family home, duplex, apartment, townhouse, or mobile home) if such church, school or residence is located within an A, B, C, D, E, F, G, H, R-1, R-2, R-3, R-4, R-5, R-6, O-1, B-1, B-2, or B-3 zone.

(e) Any appeal of the decision or action by the director shall be filed in writing with the city clerk within twenty (20) days of receipt of the decision or action specifying the exact grounds and reasons for the appeal. The appeal shall be heard by the city council during its next available, regularly scheduled meeting. The city council may uphold, reverse, or modify the director's decision or action. Failure to appeal to the city council within the prescribed period shall render the director's decision or action final, and in cases of license revocation, the effect shall be a forfeiture of the license, which forfeiture shall be final.

(Code 1959, § 20-10; Ord. No. 39908, § 1, 9-9-71; Ord. No. 46844, § 3, 7-1-76; Ord. No. 87958, § 3, 6-11-98)

#### **Sec. 16-192. Variances.**

The board of adjustment is authorized to grant, pursuant to the procedures set forth in this Code, a variance from the provisions of sections 16-193 and 16-194, but only due to unique circumstances on the premises or adjacent thereto (such as topography), not created by the dealer and not merely financial, and which are not a part of general conditions in the area, provided and except, however, that existing industries within the purview of this article may expand to adjoining property without the necessity of an additional license so long as all other requirements for such expansion are met by the dealer. The board of adjustment, however, may not in any manner grant variances to subsection 16-194(g) nor to requirements set by state or federal regulations which may be listed in this article.

(Code 1959, § 20-9; Ord. No. 39908, § 1, 9-9-71; Ord. No. 41231, § 1, 9-28-72; Ord. No. 87958, § 3, 6-11-98)

#### **Sec. 16-193. Fencing.**

(a) All salvage yards shall be enclosed on all sides (including front and rear) with a substantial and anchored wall or screen fence constructed as an adequate barrier to inhibit the migration of rodents and other vectors from the salvage yard to an adjacent property. The wall or screen fence shall be constructed with appropriate screen drains so as not to inhibit necessary water drainage.

(b) The wall or screen fence shall be constructed such that the interior of the salvage yard is not visible from the exterior. The wall or screen fence for salvage yards located within one hundred (100) feet of a

property with a residence thereon shall be constructed or modified so that it is eight (8) feet in height. The wall or screen fence for all other salvage yards shall be at least six (6) feet in height.

(c) Those sections of a salvage yard which are contiguous with another salvage yard shall be exempt from subsection (b), above, if those sections otherwise have an adequate barrier as required by subsection (a), above, to inhibit the migration of rodents and other vectors between the salvage yards.

(d) Any section of wall or screen fence located within one hundred (100) feet of a property with a residence thereon shall be constructed or modified so that it extends at least (3) inches into the ground. Building up the surrounding ground to cover at least the lower (3) three inches of the section of wall or screen fence shall be considered compliance with this requirement. Should water drainage be substantially affected, the procedure in section 16-192 shall be followed.

(e) All walls or screen fences shall be maintained in a neat, solid, substantial, and safe condition. No wall or screen fence shall be kept in a listing, damaged, or decaying condition.

(f) Gates for access to the salvage yard's premises at each street or alley line shall not have combined openings exceeding thirty (30) percent of the alley or street frontage. All gates for access shall swing inward and shall be kept closed when the salvage yard is not open for business.

(g) The fencing requirements in the subsection shall not apply to salvage yards conducted solely within a completely enclosed structure or structures.

(h) Dealers affected by this section shall have two (2) years from the date this section becomes effective to comply.

(Code 1959, § 20-4; Ord. No. 39908, § 1, 9-9-71; Ord. No. 41231, § 1, 9-28-72; Ord. No. 46844, § 4, 7-1-76; Ord. No. 87958, § 3, 6-11-98)

**Sec. 16-194. Manner of salvage article storage; waste containment; weed and brush maintenance; fire lane.**

(a) Salvage articles on the premises of a salvage yard shall be arranged so that a reasonable inspection of, or access to, all parts of the premises can be had at any time by the proper fire, health, police, code enforcement, and building authorities which inspections dealers shall permit at any reasonable time. All junked, wrecked or inoperable vehicle bodies located outside of a building, if stacked, shall be so stacked only with the use of metal racks or other safe, metal supports so that all bodies are at least six (6) inches above the ground and are arranged to provide ease of inspection, control of insects and rodents, and to facilitate water drainage, containment, and waste control. Neither the vehicle bodies, vehicle parts, nor other salvage articles shall be stored or stacked higher than the height of the salvage yard's wall or screen fence.

(b) No salvage articles shall be placed in any manner outside of the salvage yard's surrounding screen fence or wall.

(c) Premises shall be kept clean of any weeds and/or brush over twelve (12) inches tall where salvage articles are kept and/or within one hundred fifty (150) feet from the curb line of adjacent streets or the edge of the streets or road surface where no curb exists.

(d) Upon the salvage dealer's possession of all salvage articles, contaminated liquid wastes along with other contaminated materials, hazardous waste, and special waste--including freon--shall be removed from the salvage articles and contained, stored, and disposed in compliance with all applicable state and federal regulations. Disposal of accumulated contaminated liquids and materials shall be accomplished by a duly licensed contractor. The salvage dealer shall maintain on premises all completed manifests evidencing legal disposal for a period of no less than five (5) years from the date of disposal.

(e) All storage of liquid waste shall be subject to applicable state and federal regulations. In no event shall any salvage dealer maintain a volume and weight of stored liquid waste inventory in excess of the lesser of the maximum exempt amounts allowed by the fire code as adopted within this Code or state and federal regulations for a small quantity generator. All liquid waste shall be stored only in above ground containers approved by and in accordance with the state department of transportation, the Texas Administrative Code, and the fire code sufficient for the delivery to a transporter for disposal. It shall be unlawful for any waste to be held in a container which leaks, is in any other manner not in compliance with state and federal regulations, or in any manner fails to completely contain the material in question.

(f) All solid waste, regardless of character or category, shall be so contained as to cause or allow no release or spill of the material in question.

(g) All salvage yards, as defined by this article, shall have a fire lane. No salvage articles shall be placed within ten (10) feet of the surrounding wall or screen fence. The fire chief shall oversee fire lane specifications and compliance for each salvage yard, and may alter the required number of feet in accordance with the location, use, size, and other characteristics of an individual salvage yard. A salvage yard shall be brought into compliance within one (1) year. All penalties and appellate procedures of chapter 11 of this Code shall apply to this subsection.

(Code 1959, § 20-5; Ord. No. 87958, § 3, 6-11-98)

**Sec. 16-195. Emergency contact numbers.**

All salvage dealers shall place and maintain a sign on the premises that may be read from the street right-of-way listing the names and telephone numbers of at least one person in the county who may be called to give admittance to the premises in case of emergency.

(Code 1959, § 20-5; Ord. No. 87958, § 3, 6-11-98)

**Sec. 16-196. Rodent and vector control.**

(a) All salvage yards shall have a rodent and vector extermination treatment covering the entire premises conducted a minimum of once every six (6) months, conducted in such a manner and utilizing such chemicals as are acceptable to the director.

(b) A rodent and vector control program is the responsibility of the dealer and shall be on-going for the duration of the salvage yard's operation.

(c) A code compliance officer shall inspect all salvage yards, as defined by this article, within the city a minimum of once every six (6) months. At the time of the inspection, the inspector shall be provided with evidence to prove that such extermination procedure has occurred within the preceding six-month period and that the dealer has an on-going program for observation, determination, and control of rodents and vectors. The dealer's presentation of evidence of a service contract with a recognized and licensed pest control contractor may satisfy this requirement.

(d) If a professional exterminator has been employed, a receipt for payment for services rendered shall be provided. If the dealer conducts the extermination without using a professional exterminator, the dealer shall request health department certification at the time the extermination occurs and furnish the code compliance officer with such evidence sufficient to show that the control has been accomplished in an efficient manner.

(e) It shall be unlawful for any dealer to fail to have the necessary rodent and vector extermination conducted in accordance herewith, and it shall also be unlawful to fail to present to the code compliance officer upon request the necessary verification of such effective extermination.

(Code 1959, § 20-5; Ord. No. 39908, § 1, 9-9-71; Ord. No. 41231, § 1, 9-28-72; Ord. No. 46844, §§ 1, 6, 7-1-76; Ord. No. 87958, § 3, 6-11-98)

**Sec. 16-197. Monthly inspections; nuisance declared.**

(a) Monthly inspections shall be made of all salvage yards by the housing and neighborhood services department for the purpose of assuring compliance with the terms of this article. A form shall be devised by said department to be completed at the time of such inspection indicating the date the inspection occurred. This form indicating the date of the last inspection must be posted by the dealer in a conspicuous place on the premises at all times.

(b) Conditions maintained in violation of this article which impact public health, safety, or welfare, or which deprive neighbors of their safe or peaceful use of nearby properties shall be unlawful and shall be deemed a public nuisance.

(c) Multiple allegations of violations of the provisions of this article shall be grounds for the director to consider revocation of the dealer's license. Revocation by the director, if such should occur, may take place only after opportunity is afforded to the dealer to confer with the director concerning the alleged violations. Revocation may be appealed to the city council.

(Code 1959, § 20-7; Ord. No. 39908, § 1, 9-9-71; Ord. No. 41231, § 1, 9-28-72; Ord. No. 46844, § 2, 7-1-76; Ord. No. 87958, § 3, 6-11-98)

**Sec. 16-198. Time limit for compliance by newly annexed yards.**

(a) Dealers of salvage yards which are annexed into the city shall have a period of one (1) year from the effective date of the annexation to install fencing as required by this article. Dealers whose salvage yards are annexed shall also demonstrate compliance with existing federal, state, and county laws and regulations applicable to fencing requirements for such yards at the date of annexation.

(b) Subsequent to annexation, the director shall promptly notify affected dealers in newly annexed areas of the obligations under this article.

(Code 1959, § 20-6; Ord. No. 39908, § 1, 9-9-71; Ord. No. 41231, § 1, 9-28-72; Ord. No. 46844, § 5, 7-1-76; Ord. No. 87958, § 3, 6-11-98)

## **DIVISION 2. RECEIPT OF REGULATED METAL PROPERTY**

### **Sec. 16-199. Definitions.**

For the purpose of this article, the following terms shall have the meanings indicated:

(1) *City* means the City of San Antonio, Bexar County, Texas.

(2) *Secondary metals recycler* means any person who, directly or through an agent, manager, or employee, purchases or receives scrap metal which is thereafter subjected to two or more of the following: (a) sorting or classifying, (b) cleaning, (c) bailing or wrapping, (d) cutting, shredding, or shearing, or (e) changing the physical form or chemical content thereof as needed for the manufacturing of new metal items.

(3) *Salvage dealer* means a person other than a secondary metals recycler, who personally or through managers, agents, and/or employees, purchases or receives scrap or other metal items that are offered for sale.

(4) *Person* means an individual, joint venture, partnership, corporation, trust, or association.

(5) *Dealers* means both secondary metals recyclers and junk and salvage dealers collectively.

(6) *Regulated metal property* means the following:

a. Street signs,

b. Traffic directional and traffic control signs,

c. Traffic light signals,

d. Manhole covers,

e. Road and bridge guard rails,

f. Street light poles and fixtures,

g. Any metal item that is conspicuously marked with any form of the name or initials of the city, city water board, city public service board (initials CPS or CPSB), or any telephone company, or

h. Copper or metal items made in part of copper.

(Ord. No. 71427, § 2, 4-19-90)

**Sec. 16-200. Purchase of regulated metal property prohibited; exceptions.**

No dealer, individually or through any manager, agent or employee, shall receive regulated metal property, unless the regulated metal property is received from:

- (1) Any governmental entity or agency;
- (2) A trustee in bankruptcy, executor, administrator, or receiver who presents proof of authority to sell generally described regulated metal from an estate;
- (3) Any public official acting under the order of a court;
- (4) A manufacturer or other commercial vendor that produces, transports, or sells regulated metals property in the ordinary course of business.
- (5) Any vendor who submits a certificate of approval from the director of the housing and neighborhood services department or the utility company identified on the regulated metal item, evidencing that such vendor is authorized to sell the subject described regulated metals property; or
- (6) Any vendor other than those set forth in paragraphs (1) through (5) above if the dealer first obtains all of the following information and documents:
  - a. The vendor's name, business address, or home address if there is no business address;
  - b. The distinctive number from the driver's license, military identification card, or passport, or personal identification certificate issued by Texas or another state, or a work authorization issued by the United States Immigration and Naturalization Service, of the person delivering the regulated metal property;
  - c. The date and time of the transaction;
  - d. The weight or volume, and a physical description of the type of regulated metal property received;
  - e. The amount of consideration given for the regulated metal property;
  - f. A signed statement from the person delivering the regulated metals property stating that he or she is the rightful owner of, or is entitled to sell, the regulated metal property being delivered; and
  - g. The legible printed name or initials of the dealer or agent of the dealer who enters the foregoing information on the records of the dealer.

(Ord. No. 71427, § 2, 4-19-90)

**Sec. 16-201. Individuals to be prosecuted; fine upon conviction.**

It is a class "C" misdemeanor for any individual dealer, manager, agent, or employee of a dealer to recklessly receive or negligently allow another to receive regulated metal property without first recording all data and obtaining documents required by section 16-200(6) of this article and upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.00).

(Ord. No. 71427, § 2, 4-19-90)

**Sec. 16-202. Revocation of license of salvage dealers with repeat violations; hearing.**

The housing and neighborhood services department director shall investigate suspended violators of this article. An administrative license revocation hearing shall be conducted by the city manager or a duly appointed hearing officer in accordance with the requirements of section 16-203. The hearing officer shall consider documentary evidence and testimony from any interested parties who desire to offer relevant testimony. Upon a determination that the licensee is unable or unwilling to enforce the business practices necessary to comply with this article, the city manager shall revoke the dealer's license.

(Ord. No. 71427, § 2, 4-19-90)

**Sec. 16-203. License revocation hearing.**

(a) *Request by housing and neighborhood services director to city manager for hearing.* The director shall notify the city manager of the need for a salvage dealer's license revocation administrative hearing and the city manager or duly authorized representative shall set a hearing date. The director shall notify the affected salvage dealer of such hearing, the reason for such hearing, and of the dealer's right to present evidence and to question all witnesses at such hearing. The notice shall be mailed by certified mail, return receipt requested, or hand delivered to an individual salvage dealer or to any partner of a partnership dealer, or to any officer of a corporate dealer. The notice shall be so delivered not less than fifteen (15) days before such hearing.

(b) *Prerequisite for hearing.* Such hearing shall be had if (a) the salvage dealer or any employee, manager, or agent of the dealer cumulatively have accrued two (2) convictions for violating this ordinance within a twelve (12) month period, or three (3) convictions within an eighteen (18) month period, or (b) the housing and neighborhood services department documents three (3) violations of this division by a dealer and any employee, manager, or agent of the same dealer within a thirty (30) day period.

(c) *Notice to dealer of license revocation.* If the hearing officer determines that the dealer's salvage dealer's license shall be revoked, the city manager shall issue a written thirty days notice of a salvage dealer's license revocation to the dealer by certified mail, return receipt requested. The revocation notice shall inform the salvage dealer of the right of appeal and of the time limit for the written notice of appeal. The revocation shall become final on the thirty-first day after the salvage dealer's receipt of said notice unless an appeal is properly filed.

(d) *Appeal to city council; request in writing.* The dealer licensee shall have the right of an administrative appeal to the city council if demanded in writing and delivered to the city manager within ten (10) days after the salvage dealer's receipt of the city manager's written thirty days notice salvage dealer's license revocation. Any continuation of business as a salvage dealer after such revocation takes effect shall be in violation of the license requirements of this article unless enjoined by a court of competent jurisdiction. Said revocation notice shall inform the salvage dealer of the right of appeal and of the time limit for the required written notice of appeal to be submitted to the city manager.

(Ord. No. 71427, § 2, 4-19-90)

**Sec. 16-204. Records retention and inspection; fifteen-day hold notice.**

(a) *Records.* Dealers shall maintain all records required by this article for one year from the date of the purchase reflected in the record.

(b) *Inspection of records; refusal declared an offense.* During the dealer's customary business hours, any city code compliance investigator or city police officer shall be provided access by any owner, manager, employee, or agent of the dealer to all records required by this article. Failure to provide such access shall constitute a class "C" misdemeanor offense, punishable by a fine of not more than five hundred dollars (\$500.00).

(c) *Hold notice; refusal to hold declared an offense.* Whenever a city code compliance investigator has reasonable cause to believe that a certain item of regulated metal property in the possession of a dealer has been obtained in violation of this article, or is stolen property, the city code compliance investigator may issue a "Hold Notice" to the dealer, requiring that such item be set aside and retained. Such hold notice shall be in writing, shall be delivered personally or by certified mail, return receipt requested, to the dealer, shall specifically identify those items of regulated metal property that are believed to have been obtained in violation of this article. Upon receiving the notice, the dealer may not process or remove the items of regulated metal property identified in the notice, or any portion thereof, from the place of business of the dealer for fifteen (15) calendar days from receipt of the notice by the dealer, unless released by a city code compliance investigator.

At the expiration of the hold period, the dealer may dispose of the regulated metal property unless other disposition has been ordered by a court of competent jurisdiction.

Failure to separate the specified items from other metals inventory and protect the items as required by the hold notice shall constitute a class "C" misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).

(Ord. No. 71427, § 2, 4-19-90)

Secs. 16-205--16-210. Reserved.

